IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4619 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UN GOHIL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4619 of 1999

MR GI DESAI for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 11/10/2001

ORAL JUDGEMENT

1. Shri U.N.Gohil, petitioner has filed this petition with a prayer that this Court may issue an appropriate writ, order or direction directing the respondents authorities to pay the higher pay scale will

all consequential benefits i.e. arrears of pay with running interest at the rate of 18% p.a. and further prayed that the respondents authorities be directed to fix his pay in revised pay scale as per Fifth Pay Commission with effect from 1.1.1996 with all consequential benefits.

2. The facts giving rise to this petition are as under:-

2.1 Pursuant to the advertisement the petitioner has filed an application to the respondent authority. The petitioner was called for interview and test on 10.2.1986 and he was selected for the post of Steno Instructor. He was appointed and asked to resume his duty vide Order dated 8.1.1987. However by an order dated 5.5.87 he was directed to resume his duty as Steno Instructor on 11.5.87 in the pay scale of Rs.475-800 on ad hoc basis though he was appointed against permanent regular vacancy. He continues to work on the said post since 11.5.1990 but on 25.10.90 the respondents have passed a termination order in this behalf.

2.2 Being aggrieved and dissatisfied with the said order, petitioner filed a writ petition being Special Civil Application No.4297 of 1990 before this Court and this Court (Coram: C.K.Thakkar, J. as he was then) by his judgment and order dated 3.2.1993 pleased to allow the petition and set aside the order of termination and directed that the petitioner will be reinstated with full wages.

2.3 It is the case of the petitioner that the respondents did not give due increment to the petitioner from the date of appointment, the petitioner has represented his case for grant of increment but no action was taken by the respondents.

2.4 Being aggrieved and dissatisfied with the aforesaid action of the authority, petitioner filed another petition being Special Civil Application No.10676 of 1994 before this Court and this Court (Coram: S.D.Pandit, J. as he was then) by his judgment and order dated 25.4.1996 pleased to pass the operative order as under:

> "The petitioner should make a detailed representation to his immediate superior within one week mentioning therein, the dates on which his increments have become due as per his claim along with the amount of increment. Said

representation given by his should be considered and finally decided by the respondent authorities within four weeks from the date of receipt of the said representation. The learned advocate for the petitioner should also supply a copy of the said representation to the learned advocate for the respondents in order to have an early decision on his representation. In case, if the claim of the petitioner happens to be either rejected or not considered, then he is at liberty to file a fresh petition. The petition is accordingly disposed of. Rule is made absolute in the aforesaid terms. No order as to costs. D.S. permitted."

2.5 It is the case of petitioner that he was due for higher pay on 11.5.1996 but till date he was not given this higher pay scale. Thereafter he made a representation to the authority also in this behalf. It was further stated that recommendation of Fifth Pay Commission has also been accepted by the Government in this behalf. The petitioner thereafter again made a representation on 27.11.97 and 10.12.1998 but the Government has not taken any action in this behalf.

2.6 Being aggrieved and dissatisfied with the said action, the petitioner filed present petition before this Court on 25th June, 1999.

2.7 When the matter was placed for hearing before this Court on 31.8.1999 this Court issued notice in this behalf and thereafter matter was admitted on 22.11.1999.

3. With consent of parties the matter is taken up for final hearing today. In view of the fact that the learned advocate for the petitioner has relied upon the letter dated 25.5.2000 addressed by Director, Scheduled Case and Scheduled Tribe, Gujarat State, Gandhinagar, to District Social Officer for Backward Class and also another letter dated 24th April 2000 addressed by Officer of Social Justice to Director of Scheduled Caste and Scheduled Tribe, Gandhinagar.

4. In view of the same, the petitioner will make another representation to the authority pointing out all details which are subject matter of this petition and any other details which he desire to make in this behalf. I hope and trust the authority will consider and decide the same kindly and sympathetically and pass a short but speaking order in this behalf.

5. In view of the aforesaid observations, this petition stands disposed of accordingly. Rule is discharged in the aforesaid terms. No order as to costs.

(K.M. Mehta, J.)

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